



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 6, 1998

Ms. Lisa Aguilar
Assistant City Attorney
City of Corpus Christi
Legal Department
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR98-0382

Dear Ms. Aguilar:

You ask this office to reconsider our decision in Open Records Letter No. 97-2658 (1997). We assigned your request for reconsideration ID# 113261.

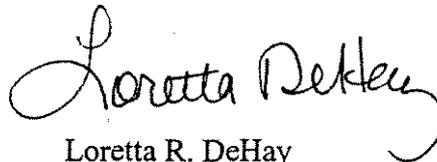
The City of Corpus Christi (the "city") received a request for "police reports pertaining to the shooting of Edward Seth Rogers, and actions Rogers took prior to his shooting," as well as "the disciplinary and commendation records of Charles Williams, Mike Delgado and Edward Solis." In your original request for an opinion, you claimed that the requested information relates to anticipated litigation and is, therefore, excepted from required public disclosure under section 552.103(a) of the Government Code. In Open Records Letter No. 97-1622 (1997), we concluded section 552.103(a) does not except the information from disclosure because you did not establish that litigation is reasonably anticipated. In Open Records Letter No. 97-2229 (1997), we affirmed the conclusion we reached in Open Records Letter No. 97-1622 (1997) with regard to section 552.103(a) of the Government Code. We affirmed both of those rulings with respect to the applicability of section 552.103 of the Government Code in Open Records Letter No. 97-2658 (1997). You state that you have released much of the information to the requestor, but you now ask whether the information submitted for our review is protected by common-law or constitutional privacy.

We have reviewed the documents submitted for our review and conclude that there is a legitimate public interest in the information. *See Industrial Found. v. Texas Industrial Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) (concluding that common-law privacy protects information only if highly intimate and embarrassing and no legitimate public interest). Furthermore, the records at issue are not protected by constitutional privacy. Constitutional privacy protects two related interests: (1) the

individual's interest in independence in making certain kinds of important decisions, and (2) the individual's interest in avoiding disclosure of personal matters. *See* Open Records Decision No. 478 (1987) at 4. Although such a test might appear more protective of privacy interests than the common-law test, the scope of information considered private under the constitutional doctrine is far narrower than that under the common law; the material must concern the "most intimate aspects of human affairs." *See* Open Records Decision No. 455 (1987) at 5 (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490 (5th Cir. 1985)). We have marked certain information that you must withhold under section 552.117 and section 552.130 of the Government Code. The remaining information must be released without further delay.

If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Deputy Chief
Open Records Division

LRD/rho

Ref: ID# 113261

Enclosures: Marked documents

cc: Ms. Mary Lee Grant
Corpus Christi Caller-Times
820 Lower North Broadway
Corpus Christi, Texas 78401
(w/o enclosures)